

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

**CRIMINAL CASE NO. 1:08cr128-2**

**UNITED STATES OF AMERICA, )**

**)**

**)**

**vs. )**

**)**

**)**

**ELWOOD AVERY. )**

**)**

**ORDER**

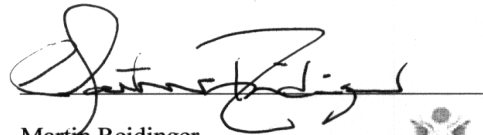
**THIS MATTER** is before the Court on the Defendant's *pro se* "Motion to Apply the 1 to 1 Ratio Based of [sic] the Discriminatory Impact on Minorities." [Doc. 350].

The Defendant was sentenced on August 26, 2009. [Doc. 307]. He filed a Notice of Appeal on September 16, 2009. [Doc. 341]. The United States Court of Appeals for the Fourth Circuit has appointed counsel to represent the Defendant. [Doc. 352]. The Defendant may not make *pro se* filings while he is represented by counsel. Additionally, the Defendant's case is on appeal in the Fourth Circuit. As a result, the pleading will be stricken from the record.

Accordingly, **IT IS, THEREFORE, ORDERED** that the Defendant's *pro* se "Motion to Apply the 1 to 1 Ratio Based of [sic] the Discriminatory Impact on Minorities" [Doc. 350] is hereby **STRICKEN** from the record.

**IT IS SO ORDERED.**

Signed: October 30, 2009

A handwritten signature in black ink, appearing to read "Martin Reidinger", written over a horizontal line.

Martin Reidinger  
United States District Judge

